

Fisheries (Ireland) Bill.

MEMORANDUM.

Clause 1.

Under the existing law the procedure for giving effect to a decision altering the close time for fisheries contained in section 34 of 5 & 6 Vict. c. 106. and section 39 of 11 & 12 Vict. c. 92. is complicated, and under 59 & 59 Vict. c. 22. an appeal lies to the Lord Lieutenant against any decision altering a close time, and a decision appealed against does not take effect until six weeks after the date of the publication of the result of the appeal.

Subsection (1) of the clause proposes that these decisions shall be given effect to by the making of byelaws in accordance with the provisions of sections 91 to 93 of 5 & 6 Vict. c. 106. which provide for the making and publication of byelaws for the protection and improvement of fisheries. Section 91 provides that all such byelaws must be approved and confirmed by the Lord Lieutenant. Section 92 provides that before the byelaws are laid before the Lord Lieutenant copies of them are to be deposited with clerks of the peace and clerks of petty sessions, and public notices of such deposit are to be given. The section also provides that any party aggrieved by any byelaw may appeal to the Lord Lieutenant.

Section 33 of 5 & 6 Vict. c. 106. provides that the expenses of any application for the alteration of a close time are to be defrayed by the persons who signed the application. Subsections (2), (3), (4), and (5) of the clause propose that these expenses shall be defrayed out of money provided by Parliament, subject to provisions which aim at placing a check on frivolous applications by enabling the Department of Agriculture to decline to hold an inquiry if they think fit, unless the applicant has first deposited a sufficient sum to cover the estimated expenses of the inquiry, and by enabling the Department at their discretion to order the applicant to pay the expenses of the inquiry.

[Bill 244.]

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Clause 2.

Section 65 of 5 & 6 Vict. c. 106. prohibits net fishing in inland waters except by the owner of a several fishery, or in cases where a general public right of fishing with nets in the nature of a common of piscary has been enjoyed for 20 years before the passing of that Act.

This enactment has not proved sufficient to prevent unjustifiable and injurious net fishing, in the fresh water portions of rivers.

The clause proposed to prohibit any net fishing in fresh water portions of rivers save where such fishing has been in fact exercised during any three seasons within the last ten years.

Clause 3.

Section 22 of 26 & 27 Vict. c. 114. provides that nothing contained in that Act shall apply to any person who catches or attempts to catch, or has in his possession any salmon or trout for the purposes of artificial propagation or scientific purposes.

Considerable detriment to salmon and trout fishing by the improper capture of immature fish has resulted, and is likely to result, from this provision.

The clause proposes to repeal this provision, and to substitute therefor a power to the Department of Agriculture to grant licences authorising the taking of salmon or trout or the ova or fry thereof for the purposes of artificial propagation or other scientific purposes and authorising the sale of ova and fry.

Subsection (3) of the clause proposes to provide that a licence shall become void if the grantee is convicted of violating any condition contained therein.

Subsection (4) provides that a person authorised by licence under the clause to take fish by means of a fixed engine shall not be liable to the penalties imposed by section 16 of 32 & 33 Vict. c. 92.

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B I L L

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Amend the Fisheries (Ireland) Acts, 1842 to 1901.

A.D. 1902.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

- 5 1.—(1.) A decision under section thirty-three of the Fisheries (Ireland) Act, 1842, altering a close season shall be given effect to by the making of a byelaw, and sections ninety-one to ninety-three of the said Act of 1842 shall apply to any such byelaw.

Amendment
of 5 & 6 Vict.
c. 109. s. 33
with respect
to mode of
altering
close season,
and expenses
of applica-
tion.

- (2.) *The expenses of an application under the said section thirty-three, and all proceedings thereunder consequent thereon, shall, subject to the provisions of this section, be paid out of money provided by Parliament.*

- (3.) Provided that the Department of Agriculture and Technical Instruction for Ireland (in this Act referred to as "the Department"), may, if they think fit, refuse to call a meeting pursuant to the said section thirty-three, unless and until the applicant deposits in the office of the Department such sum as is in their opinion sufficient to defray the said expenses.

- (4.) Provided also that the Department if, after holding the inquiry, they consider that the application ought not to have been made, may order that the said expenses, or such portion thereof as the Department may determine, shall be defrayed by the applicant, and in such case any money lodged under the foregoing provisions of this section shall be applied for the purpose of defraying the same, and if the sum so deposited is not sufficient or if no money has been lodged under this section, then the balance or the full amount, as the case may be, of the said expenses shall be paid by the applicant, and may be recovered from him before a court of summary jurisdiction as a debt.

[Bill 244.]

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A.D. 1902. (5.) Any money deposited under this section, which is not applied for the purposes of the said expenses, shall be paid to the applicant.

Amendment
of 5 & 6
Vict. c. 103.
s. 65 with
respect to
places where
net fishing
has not been
carried out.

2.—(1.) Notwithstanding anything in section sixty-five of the Fisheries (Ireland) Act, 1842 (which prohibits net fishing in certain cases), no person shall use any net in the said section mentioned in the freshwater portion of any river, save in places where a right of fishing with a like net, duly licensed, has been exercised during any three seasons within the decade last proceeding the first day of January one thousand nine hundred and two. 10

(2.) A court of summary jurisdiction shall have power to hear and determine any question arising under this section, and any person acting in contravention of this section shall be liable for each offence on conviction before such court to the penalties provided in the said section sixty-five. 15

Regulations
with respect
to the
artificial
propagation
of salmon or
trout.

3.—(1.) The Department may, if they think fit, grant a license to the owner occupier or lessee of any artificial pond or hatchery constructed for the purpose of keeping in captivity or artificially rearing salmon or trout, authorising him for the purposes of artificial propagation or scientific purposes to take, or to have in his possession, whether during an open or close season, any salmon or trout or the ova or fry thereof, or to expose for sale such ova or fry. 20

(2.) A license under this section shall contain such conditions as may be imposed therein by the Department, and may authorise the taking of fish by any means defined therein. 25

(3.) If any person having a license under this section is convicted before a court of summary jurisdiction of having acted in contravention of any condition contained in his license, the license shall thereupon become null and void. 30

33 & 34 Vict.
c. 59

(4.) Section sixteen of the Fisheries (Ireland) Act, 1869 (which imposes penalties for fishing with fixed engines), shall not apply in the case of a person using any such engine under the authority and in accordance with the conditions of a license under this section.

26 & 27 Vict.
c. 114

(5.) So much of section twenty-two of the Salmon Fishery (Ireland) Act, 1863, as exempts from the application thereof persons catching or otherwise dealing with fish for the purposes in the said section mentioned shall be repealed. 35

4. This Act may be cited as the Fisheries (Ireland) Act, 1902, and may be cited and shall be construed as one with the Fisheries (Ireland) Acts, 1842 to 1901.

5. The Acts specified in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

A.D. 1902
Short title,
citation, and
construction.
Repeal.

SCHEDULE.

ACTS REPEALED.

Section and Chapter	Short Title.	Extent of Repeal.
10 5 & 6 Vict. c. 106 -	The Fisheries (Ireland) Act, 1842	Section thirty-three from "Provided always" to the end of the section so far as unrepealed. Section thirty-four.
11 11 & 12 Vict. c. 92.	The Fisheries (Ireland) Act, 1848.	Section thirty-nine so far as unrepealed
15 26 & 27 Vict. c. 114.	The Salmon Fishery (Ireland) Act, 1863.	Section twenty-two down to "purposes and"
20 38 & 39 Vict. c. 29.	The Fisheries Close Season (Ireland) Act, 1895	The whole Act.

Fisheries (Ireland).

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B I L L

To amend the Fisheries (Ireland)
Acts, 1852 to 1901.

Mr. Bynckore.

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